

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

PAUL C. BOLIN,	)	Case No. C.V. F-99-5279-REC-P
	)	
Petitioner,	)	<u>DEATH PENALTY CASE</u>
	)	
vs.	)	ORDER
	)	1. RELIEVING COUNSEL,
JILL L. BROWN, Warden of San	)	2. APPOINTING NEW COUNSEL,
Quentin State Prison,	)	3. ESTABLISHING SCHEDULE TO
	)	EVALUATE EXHAUSTION, AND
Respondent.	)	4. SETTING TELEPHONIC CASE
	)	MANAGEMENT CONFERENCE

On April 6, 2005, the Court granted the motion of Petitioner Paul C. Bolin ("Bolin") to permit his appointed attorneys to withdraw as counsel of record from the case and to appoint new counsel in their stead. The Court relieved co-counsel Gary B. Wells as of the date of that order, but delayed the effective date of the departure of lead counsel Jolie Lipsig until replacement counsel could be found.

On July 5, 2005, the Capital Habeas Unit of the Federal Defender's Office for the Eastern District of California agreed to accept appointment as co-counsel for Bolin along with private counsel, Robert D. Bacon, who has been recommended by the Selection Board. The Court accepts the Capital Habeas Unit of the Federal Defender's Office and Robert D. Bacon as co-counsel in this matter, with each bearing equal responsibility for the prosecution of Bolin's habeas corpus action herein.

1 Appointed counsel should familiarize themselves with the Guide  
2 to Case Management and Budgeting in Capital Habeas Cases, Eastern  
3 District of California, Fresno Division (hereafter the "Attorney  
4 Guide"), which is published on the Court's website. The Attorney  
5 Guide provides information about the case management procedures as  
6 well as matters which govern the payment rates for appointed counsel,  
7 investigators, and experts. See Attorney Guide, ¶¶ 7, 9. As no  
8 reimbursement rate has been established for Mr. Bacon, setting that  
9 rate should be the first order of business. Following establishment  
10 of a reimbursement rate, appropriate budget forms will be transmitted  
11 to Mr. Bacon electronically. See Attorney Guide, ¶10.

12 With respect to case management procedures, currently, this case  
13 has reached the last stage of Phase II. See Attorney Guide ¶¶ 49-56.  
14 The amended petition is on file and the Warden filed an Answer on June  
15 17, 2005. The next step in the case management process is to resolve  
16 any exhaustion disputes before briefing of the merits commences.  
17 Under the original case management schedule for this case (before  
18 Bolin's counsel requested leave to withdraw), the parties, through  
19 their counsel were to meet and confer to discuss their respective  
20 views on the exhaustion status of the amended petition within 30 days  
21 from the filing of the answer. Within 45 days from the filing of the  
22 answer, the parties were to file a joint statement setting forth their  
23 respective positions regarding exhaustion. Due to the substitution  
24 of counsel, and the fact that nearly four weeks have elapsed since the  
25 Warden filed the answer, the Court has determined to set the meet and  
26 confer 30 days from the filing of this order and the filing of the  
27 joint statement 60 days from the filing of this order.

1 Between the meet and confer and the filing of the joint  
2 statement, the parties shall appear at a case management conference  
3 before the Court to discuss the progress of case review, exhaustion  
4 resolution efforts, and any other matters pertaining to the litigation  
5 of the case. The hearing will be convened at 1:00 p.m. on August 22,  
6 2005, and will be conducted telephonically, with counsel for Bolin  
7 responsible for arranging and initiating the communication. After the  
8 parties complete their discussion concerning litigation matters,  
9 counsel for the Warden will be excused from the conference so the  
10 Court can discuss budgeting and funding matters with counsel for  
11 Bolin. Under 21 U.S.C. § 848(q)(9), ex parte consideration of  
12 budgeting and funding matters requires a petitioner to make a showing  
13 of the need for confidentiality. The Court finds that since budget  
14 applications require disclosure of matters protected by the attorney-  
15 client and/or work product privileges, the need for confidentiality  
16 is inherent in the budgeting process. See Fed.R.Civ.P. 26(b)(3). The  
17 continuation of the case management conference without the  
18 participation of the Warden will be reported and maintained under  
19 seal. At the funding and budget portion of the case management  
20 conference, the Court will hear from Bolin's counsel with respect to  
21 any difficulties they foresee or have encountered in completing the  
22 budget forms.

23  
24 FOR GOOD CAUSE APPEARING,

- 25 1. Jolie Lipsig, appointed as lead counsel in this case on April  
26 28, 1999, is relieved as counsel of record effective the date of  
27 the filing of this order.  
28

2. The Capital Habeas Unit of the Federal Defender's Office together with Robert D. Bacon, PMB 110, 484 Lake Park Avenue, Oakland, California 94610, telephone, (510) 834-6219 are hereby appointed as co-counsel in this matter pursuant to 21 U.S.C. § 848(q) (4).

3. Within 14 days of the filing of this order, Mr. Bacon shall file a request to establish a reimbursement rate. This request shall be filed under seal, as will be the order setting an hourly rate.

4. Within 30 days of the filing of this order, the parties, through their counsel, shall meet and confer to discuss their respective positions on the exhaustion status of the amended petition and within 60 days of the filing of this order, shall file a joint statement setting forth their positions on the exhaustion status.

5. The parties shall appear telephonically for a case management conference at 1:00 p.m. on August 22, 2005 with counsel for Bolin responsible for arranging and initiating the communication.

IT IS SO ORDERED.

**Dated: July 12, 2005**  
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**/s/ Robert E. Coyle**  
UNITED STATES DISTRICT JUDGE